

Andreza

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 303 OF 2021

1. Joao Rosario Fernandes & 2 Ors. ...Petitioners
Versus
1. State of Goa, Thr. Chief Secretary,
Govt. of Goa & 26 Ors. ...Respondents

Mr. C. A. Ferreira and Mr. D. D. Zaveri, Advocates
for the Petitioners.

Mr. Manish Salkar, Government Advocate for the
Respondent nos. 1 to 4.

Mr. S. S. Kantak, Senior Advocate with Mr.
Parikshit Sawant and Mr. K. Ceaser, Advocates for
the Respondent nos. 5 and 13.

Mr. A. D. Bhobe and Ms. Annelise Fernandes,
Advocate for the Respondent no. 6.

Mr. Pankaj Pai Vernekar, Advocate for the
Respondent no. 11.

Mr. Raunaq Rao, Advocate for the Respondent no. 17

CORAM: MANISH PITALE, J

DATED: 28th October 2021

P.C.

1. By this Writ Petition, the Petitioners have challenged communication dated 10.08.2021 issued by the Under Secretary (Revenue-I) of the Respondent-State i.e. the Respondent no.3 herein, whereby the President and Attorney of the Managing Committee of Comunidade of Fraternal de Aldona were dismissed under Article 74 of the Code of Comunidades and the Administrator of the Code of Comunidades of North Zone was directed to look after the administration. By the said communication, it was also informed that the elected Managing Committee stood dissolved.

2. As a consequence of the said communication, by order dated 17.08.2021, the Respondent no.4-Administrator of Comunidades stated that the President and Attorney as also the Managing Committee of the said Comunidade, stood dissolved.

3. The short ground raised in the present Writ Petition to challenge the impugned communication and the consequential order is that before issuing such communication and order, the Petitioners were not given hearing. In fact, no notice was issued to the Petitioners and that, therefore, this was in flagrant violation of the principles of natural justice.

4. This Court issued notice in the present Writ Petition for final disposal and directed the parties to maintain status quo as on 06.09.2021.

5. The Respondents entered appearance through Counsel. There can be no doubt about the position of law that, if an order adverse to the interest of a party is to be issued, the affected party has to be issued a notice and granted proper hearing before any such order is passed. It is pointed out on behalf of the Petitioners that apart from the adverse effect of them being removed from the Managing Committee of the said Comunidade, under clause (3) of Article 70 of the Code of Comunidades, there is a serious civil consequence that

would visit them in the form of a bar to re-election before completing nine years from such dissolution.

6. This Court is of the opinion that considering the serious consequences that are faced by the Petitioners, the impugned communication and order cannot be sustained only on the ground of violation of principles of natural justice.

7. Mr. Salkar, the learned Government Advocate appearing for the Respondent nos. 1 to 4, makes a statement, on instructions, that hearing would be granted to the Petitioners before any precipitate action is taken.

8. In view of the above, the Writ Petition is allowed. The impugned communication dated 10.08.2021 and the consequential order dated 17.08.2021, are quashed and set aside.

9. If the Respondent nos. 1 to 3 intend to take any action against the Petitioners, proper notice and effective hearing shall be granted to the Petitioners before any order is passed.

MANISH PITALE, J.

ANDREZA PEREIRA Digitally signed by ANDREZA PEREIRA
Date: 2021.10.28 16:50:43 +05'30'